


SO ORDERED: May 17, 2019.




Robyn L. Moberly
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In re:

USA GYMNASTICS,¹

Debtor.

Chapter 11

Case No. 18-09108-RLM-11

**ORDER AUTHORIZING APPOINTMENT OF FUTURE
CLAIMANTS' REPRESENTATIVE AND APPOINTING
FRED C. CARUSO AS FUTURE CLAIMANTS' REPRESENTATIVE**

This matter came before the Court on the *Debtor's Motion For Order Authorizing The Appointment Of A Future Claimants' Representative* [Dkt. 363] and the *Debtor's Motion For*

¹ The last four digits of the Debtor's federal tax identification number are 7871. The location of the Debtor's principal office is 130 E. Washington Street, Suite 700, Indianapolis, Indiana 46204.

Order Appointing Fred C. Caruso As Future Claimants' Representative (collectively, the “**FCR Motions**”), filed by USA Gymnastics as debtor and debtor in possession (the “**Debtor**”), for the entry of an order pursuant to sections 105(a) and 1109(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”), and upon consideration of the *Declaration of Fred C. Caruso* (the “**Caruso Declaration**”); and the Court finds that (i) it has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; (ii) this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), and (O); (iii) the relief requested in the FCR Motions is in the best interests of the Debtor, its estate, and creditors; and after due deliberation, and good and sufficient cause appearing therefore, the Court hereby determines that the FCR Motions should be GRANTED.

IT IS HEREBY ORDERED:

1. The FCR Motions are granted as set forth herein.
2. The Court hereby authorizes the appointment of Fred C. Caruso (the “**Future Claimants' Representative**”) to appear and be heard on behalf of Future Claimants. A “Future Claimant” is a Person who (a) held a Sexual Abuse Claim against the Debtor as of the Sexual Abuse Claims Bar Date and (b) meets one of the following criteria: (i) is under the age of majority under applicable state law as of March 1, 2019; (ii) as of March 1, 2019, the statute of limitations for such Person was tolled under applicable state law or had not begun to run under applicable state law; (iii) as of March 1, 2019, the Debtor was estopped under applicable state law from asserting the statute of limitations; or (iv) such Person’s Sexual Abuse Claim was barred by the applicable statute of limitations as of March 1, 2019 but is no longer barred by the applicable statute of limitations for any reason, including the enactment of legislation that revives such claims (the “**Future Claimants**”); provided however that the following persons are not Future Claimants:
A) any Person who has, at any time before the Sexual Abuse Claims Bar Date, asserted a claim

against, asserted a cause of action against, provided notice to, or made a demand to or against the Debtor, arising out of or relating to Sexual Abuse or whose parent or guardian or other legal representative had done so on behalf of such Person.² The foregoing definition of Future Claimants is without prejudice to the right of the Future Claimants' Representative to petition the Court to modify the definition of Future Claimants or for the Court to modify such definition in connection with confirming a plan of reorganization for the Debtor.

3. The Future Claimants' Representative shall have the following rights in this chapter 11 case:

- a. Standing: The Future Claimants' Representative shall have standing (1) to be heard regarding the definition of Future Claimants; (2) to negotiate treatment under a plan of reorganization; (3) to appear and be heard with respect to approval of a disclosure statement or plan of reorganization; and (4) to request compensation for services performed;
- b. Right to Receive Notices: The Future Claimants' Representative shall have the right to receive all notices and pleadings that are required to be served upon any statutory committee and its counsel pursuant to applicable law and the *Order Granting Debtor's Motion For Order Establishing Certain Notice, Case Management, And Administrative Procedures* [Dkt. 213]; and,
- c. Compensation: The Future Claimants' Representative's compensation shall be subject to further order of the Court after notice and a hearing.

4. The Future Claimants' Representative shall be compensated in accordance with his normal rates and disbursement policies, as set forth in the Motion and the Caruso Declaration, pursuant to periodic applications to be considered by this Court in accordance with the procedures set forth in the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of the United States Bankruptcy Court for the Southern District of

² Incorporated in this Order are the definitions of "sexual abuse" and "Sexual Abuse Claims Bar Date" that are used in the *Order Approving Debtor's Motion For Order Establishing Deadlines For Filing Proofs Of Claim And Approving Notice Thereof* [Dkt. 301, at ¶¶ 4-5].

Indiana, and the *Order Granting Debtor's Motion For Entry Of Order Establishing Procedures For Interim Compensation And Reimbursement Of Professionals* [Dkt. 187].

5. Notwithstanding anything to the contrary, the terms and conditions of this order shall be immediately effective and enforceable upon its entry.

6. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this order.

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